

REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-15 and 18 are currently pending, Claims 11-15 and 18 having been withdrawn. Claims 1-6 and 8-9 have been amended by the present amendment. No new matter has been added.

In the outstanding Office Action, Claims 1-6 were rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter; Claims 1-6 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite; and Claims 1-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Imaeda (U.S. Publication 2004/0204093, hereinafter “Imaeda”) in view of Official Notice.

In response to the rejections of Claims 1-6 under 35 U.S.C. § 101, Claim 1 has been amended to recite a system which includes, *inter alia*, **a central processing unit**. Thus, Applicants respectfully submit that Claim 1 (and all associated dependent claims) recites statutory subject matter.

Further, Claim 6 is directed to a memory card, which is clearly an article of manufacture and thus statutory. Accordingly, Applicants respectfully request that the rejections of Claims 1-6 under 35 U.S.C. § 101 be withdrawn.

Applicants respectfully traverse the rejections of Claims 1-6 under 35 U.S.C. § 112, second paragraph. The outstanding Office Action asserts that “a module is claimed with no defined structure to supports its definition,” allegedly rendering Claims 1-6 indefinite.

First, Applicants note that independent Claim 6 does not recite the word “module.” Further, Claims 1-6 have been amended for purposes of clarity, but do not change the original scope of the claims. Claim 1 has been amended to recite **a central processing unit including** various modules configured to perform specific functions. Thus, the central processing unit

provides supporting structure for the modules, which can be implemented as software which causes the central processing unit to perform specific functions. Further, the modules recited by Claims 1-5, include clear functional limitations indicated by the phrase “configured to”.

The MPEP states:

A functional limitation is an attempt to define something by what it does, rather than by what it is (e.g., as evidenced by its specific structure or specific ingredients). There is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper. *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971).

A functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used.¹

Accordingly, Applicants respectfully submit that Claims 1-6 are not indefinite, and request that the rejections of Claims 1-6 under 35 U.S.C. § 112, second paragraph, be withdrawn.

In response to the rejections of Claims 1-10 under 35 U.S.C. § 103(a), Claims 1 and 6 have been amended to include features not taught or rendered obvious by the cited references, rendering the rejections of Claims 1-10 under 35 U.S.C. § 103(a) moot. Claim 1 is directed to a system for exchanging information with a memory card which includes ***a useable area for saving a user data and a security area for storing secret data, and changes the capacity of the usable area by changing the capacity of the security area***, the system being accessible with the security area only when the system is authenticated according to executing two-way authentication with the memory card. The system includes a central processing unit, which further includes a charge management module configured to receive payment of a charge corresponding to an increased amount of a usable area if a capacity of the usable area of the memory card for saving user data is increased, and pay out a charge corresponding to the

¹ MPEP § 2173.05(g).

reduced amount of the usable area if the capacity of the usable area is reduced. The central processing unit further includes a transmission module configured to transmit an area changing command to instruct an increase or a reduction of the usable area in accordance with the charge to the memory card. The amendment of Claim 1 is fully supported by the original specification.²

Claim 6 has been amended to also recite *a security area for storing secret data and a controller for changing a capacity of the usable area by changing the capacity of the security area.*

Turning now to the applied reference, Imaeda is directed to a management method of storing data from a memory card in an external storage device and a system for carrying out the method.³ The outstanding Office Action refers to Figure 5b and related text of Imaeda in support of the assertion that Imaeda describes the features of Claims 1 and 6.⁴ Imaeda describes an approach where a physical memory card is provided with virtual memory, which appears to be a part of the memory card, but is in fact remote storage at a remote server. A user of the memory card can thus expand the storage capacity of the memory card by purchasing additional storage space on the remote server.⁵ This approach relies on a communication terminal stored in the housing of a memory card, which transmits data to the remote server.⁶ However, Imaeda is silent regarding a card with *a useable area for saving a user data and a security area for storing secret data, and changes the capacity of the usable area by changing the capacity of the security area*, as recited by Claims 1 and 6.

Accordingly, Applicants respectfully submit that amended Claims 1 and 6 (and all associated dependent claims) patentably define over Imaeda. While the outstanding Office Action takes Official Notice that it is well-known to issue a credit when prescribed usage is

² Applicants' original specification, pages 8, 11-12, 17 and 23.

³ Imaeda, paragraph [0002].

⁴ Outstanding Office Action, page 4, lines 17-20.

⁵ Imaeda, paragraphs [0010-0013, 0022-0023].

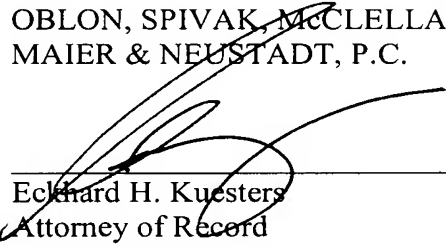
⁶ Imaeda, paragraph [0023].

reduced, it does not assert that the features of amended Claims 1 and 6 are well-known or obvious. Accordingly, Applicants respectfully request that the rejections of Claims 1-10 under 35 U.S.C. § 103(a) be withdrawn.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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